

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

15-CR-143

MICHAEL PAUL MITCHELL,

DECISION AND ORDER

Defendant.

1. On October 16, 2018, the defendant, Michael Paul Mitchell, pleaded guilty to Count 3 of the second superseding indictment charging a violation of Title 21, United States Code, Section 846 (conspiracy to possess with intent to distribute 100 grams or more of heroin). Docket Item 217.

2. On October 16, 2018, the Honorable H. Kenneth Schroeder, Jr., United States Magistrate Judge, filed a Report & Recommendation recommending that the defendant's plea of guilty be accepted and that the defendant be adjudged guilty. Docket Item 712.

3. This Court has not received objections to the Report & Recommendation in accordance with Title 28, United States Code, Section 636(b)(1), and Rule 59(b) of the Federal Rules of Criminal Procedure, and the time to object now has expired.

4. This Court has carefully reviewed *de novo* Judge Schroeder's Report & Recommendation (docket item 712), the plea agreement (docket item 710), the second superseding indictment (docket item 217), a transcript of the digital FTR recording of the plea proceeding (docket item 794), and the applicable law. This Court finds no legal or factual error in Judge Schroeder's Report & Recommendation and

therefore adopts Judge Schroeder's recommendation that the defendant's plea of guilty be accepted and that the defendant be adjudged guilty of Count 3 of the second superseding indictment.

IT IS HEREBY ORDERED that this Court adopts Judge Schroeder's October 16, 2018 Report & Recommendation, Docket Item 712, in its entirety, including the authorities cited and the reasons given therein, and it is further

ORDERED that the Court accepts the defendant's plea of guilty and defers acceptance of the plea agreement pursuant to Sentencing Guidelines Section 6B1.1(c), and the defendant, Michael Paul Mitchell, is now adjudged guilty under Title 21, United States Code, Section 846.

SO ORDERED.

Dated: November 28, 2018
Buffalo, New York

s/ Lawrence J. Vilardo

LAWRENCE J. VILARDO
UNITED STATES DISTRICT JUDGE